lessee, even if the lessor is ultimately to reimburse him therefor. *Conant* v. *Brackett, supra*; *Rothe* v. *Bellingrath, supra*. *A fortiori* there is no consent in the principal case, since the lessor expressly denies the lessee the use of his credit. Some decisions hold the lien runs against the lessor, relying on the express wording of their state statutes. *Carey-Lombard Lumber Co.* v. *Jones*, 187 Ill. 203, 58 N. E. 347; *Burkitt* v. *Harper*, 79 N. Y. 273. Others obtain this result by incorrectly inferring a fictitious agency between lessor and lessee and construing an improvement lease as a building contract. *Hall* v. *Parker*, 94 Pa. St. 109; *Kremer* v. *Walton*, 11 Wash. 120.

PRESUMPTIONS — EXISTENCE AND EFFECT OF PRESUMPTIONS IN PARTICULAR CASES — DEATH AFTER SEVEN YEARS. — In 1873 the intestate's sister, thirty-four years of age, disappeared from the house where she had been a domestic servant for ten years, leaving behind all her personal effects, and was not heard of thereafter. In 1910 the intestate died, leaving property to a part of which the sister would be entitled if living. The other heirs claimed the whole estate. *Held*, that the death of the sister is not established. *In re Benjamin*, 137 N. Y. Supp. 758 (Surr. Ct., N. Y. Co.).

Conclusive presumptions are rules, not of evidence, but of law. But presumptions, when legitimately applied, are presumptions of fact and leave the matters assumed open to further proof. The burden of going ahead is merely shifted to the other party. *Scott* v. *McNeal*, 154 U. S. 34, 14 Sup. Ct. 1108. See *Hoyt* v. *Newbold*, 45 N. J. L. 219, 222. In general a person is presumed to be alive until after such time as he would die of old age. See *Hammond's Lessee* v. *Indoes*, 4 Md. 138, 174; *Hopfensach* v. *City of New York*, 173 N. Y. 321, 324, 66 N. E. 11, 12. By judicial legislation, a series of cases, following the analogy of two seventeenth-century statutes, created an arbitrary presumption of death after seven years' absence. *Doe* v. *Jesson*, 6 East 80; *Hopewell* v. *De Pinna*, 2 Campb. 113. See *Burr* v. *Sims*, 4 Whart. (Pa.) 150, 170. In many jurisdictions continuous unexplained absence for seven years without tidings will raise the presumption of fact in spite of other circumstances surrounding the disappearance. *Wentworth* v. *Wentworth*, 71 Me. 72. See *Schaub* v. *Griffin*, 84 Md. 557, 563, 36 Atl. 443. Under such a rule the principal case would undoubtedly be wrong. But it is submitted that additional circumstances, such as youth, health, or a roving disposition, should in certain cases prevent the creation of the presumption. Thus, the presumption, which is convenient in many cases, will not necessarily cause injustice if the adverse party has no rebutting evidence. *Czech* v. *Bean*, 35 N. Y. Misc. 729, 72 N. Y. Supp. 402; *Vought* v. *Williams*, 120 N. Y. 253, 24 N. E. 195. In the principal case, the circumstances surrounding the disappearance hardly seem to furnish grounds to deny the ordinary presumption.

PROHIBITION — WHETHER A WRIT OF RIGHT. — The petitioner, being threatened by an unconstitutional tribunal, demanded a writ of prohibition. On refusal, a petition to establish exceptions was brought. *Held*, that the petition will be allowed. *Curtis* v. *Cornish*, 84 Atl. 799 (Me.).

The principal case seeks to rely on the principle laid down by the United States Supreme Court that a writ of prohibition issues of right in the absence of other means of redress, and at discretion where there is another legal remedy. *Smith* v. *Whitney*, 116 U. S. 167, 6 Sup. Ct. 570; *In re Cooper*, 143 U. S. 472, 12 Sup. Ct. 453. But the application seems doubtful, since *certiorari* or a writ of error would be available, though probably inadequate, alternative remedies. Many American courts treat the writ as wholly discretionary and hence not reviewable on appeal. *State ex rel. Osborn* v. *Houston*, 35 La. Ann. 538; *People ex rel. Adams* v. *Westbrook*, 89 N. Y. 152. In England the remedy ordinarily